



201 S HIGHLAND AVE., STE 201
PITTSBURGH, PA 15206

JOSHUA P. WARD, ESQ.

412.545.3016 OFFICE
412.540.3399 FAX
Info@JPWARD.COM

September 27, 2023

VIA FIRST CLASS MAIL

Robert Sofaly
221 Slate Run Rd
Greensburg, PA 15601

RE: Robert Sofaly v. Portfolio Recovery Associates, LLC

Dear Robert Sofaly:

After requesting your credit reports, we have discovered that Portfolio Recovery Associates has illegally reported a disputed debt on your credit report. Enclosed please find two copies of the Representation Agreement and W-9 Form. Please sign and return a copy in the self-addressed stamped envelope provided. Please note that we will also be sending you an electronic version of these same documents via Adobe ESign that you can complete using a computer or smartphone.

Thank you for the opportunity to prosecute this case on your behalf. Please feel free to contact me with questions or concerns.

Very truly yours,

A handwritten signature in blue ink, appearing to read "J.P. WARD".

Joshua P. Ward, Esq.
jward@jpward.com
Phone: (412) 545-3016

Enclosure(s): 3

We believe a creditor has violated your rights under one or more consumer protection laws. You have the right to sue the bank or debt collector for statutory damages, which can put money back in your pocket, stop harassing conduct, and allow J.P. Ward & Associates, LLC to negotiate or force the deletion of the trade line from your credit score and history. The lawsuit almost never requires any involvement from you – we can usually handle 100% of the process on your behalf.

The consumer protection laws are designed to give lawyers the tools to fix credit reporting errors and stop harassing conduct. To be clear, these laws are designed only to put you back in the position you were in before the bank committed the violation, and to deter the bank from violating your rights in the future. However, you will likely receive a settlement check, and there may be tax consequences that you should understand. This depends on your tax bracket and how you typically claim your deductions on your return.

As your attorneys, we a duty to ensure that you understand all of benefits and tax consequences associated with our work. We have designed our representation agreements to ensure that we can correct credit reporting and other errors, protect our clients from paying out-of-pocket costs or fees.

If you plan to file your Form 1040 tax return and claim all itemized deductions, as opposed to the standard deduction (\$12,000.00), you may still have tax consequences associated with this lawsuit. Filing an itemized return is the best way to ensure you get to keep most of the money we obtain for you, and it is recommended course of action if your total deductions exceed 2% of your income. Please consult a licensed tax professional.

Additionally, if you are in the lower tax brackets (under \$77,400.00 per year income) you need not worry about negative tax consequences. Your net payout from the lawsuit will exceed any income tax that is assessed against you.

In all cases, the primary goals are to gain leverage to force the bank or creditor to remove the negative credit reporting from your history. This can be done with no out-of-pocket expense to you, because the bank or creditor must pay our attorney fees.

Very truly yours,

Joshua P. Ward, Esq
Direct dial: 412-545-3015
jward@jpward.com

AGREEMENT FOR STATUTORY CONSUMER LAW VIOLATION

J.P. Ward & Associates, LLC (“Law Firm”) and **Robert Sofaly** (“Client”), with a home address of **221 Slate Run Rd, Greensburg, PA 15601, United States**, hereby agree that Law Firm will provide legal services to Client on the terms set forth below.

1. **PROFESSIONAL UNDERTAKING:** Law Firm has agreed to undertake the representation as more fully described below. Although the Law Firm will do its best to provide effective legal services, success can never be guaranteed. Furthermore, the Law Firm does not guarantee any particular result on any matter. Nothing in this Agreement and nothing in Law Firm’s statements to Client will be construed as a promise or guarantee about the outcome of the matter. Law Firm makes no such promises or guarantees. Law Firm’s comments about the outcome of the matter are expressions of opinion only.
2. **SCOPE OF SERVICES.** Client hires Law Firm to provide legal services with respect to the following Enrolled Debt:
 - a. Creditor: Portfolio Recovery Associates; Account No. 600889477822****; Balance: \$2,288; Account No. 520161171407****; Balance: \$3,022; Program: Litigation.

Client understands that Law Firm has identified a violation of one or more of the following statutes: **The Fair Debt Collection Practices Act (hereinafter, the “FDCPA”).** **The FDCPA prohibits a debt collector from improperly reporting a dismissed debt.** Law Firm believes that the following facts and resulting violations have occurred:

FACTS

- On 8/14/2023, Robert Sofaly sent Portfolio Recovery Associates the ‘First Dispute Letter’ wherein Portfolio Recovery Associates was informed of the disputed nature of any and all alleged debts that Portfolio Recovery Associates claimed to own relating to Robert Sofaly.
- Following the First Dispute Letter, Portfolio Recovery Associates possessed a duty to update any and all tradelines associated with Robert Sofaly to reflect the disputed nature of those alleged debts.
- On 9/04/2023, Portfolio Recovery Associates caused false and inaccurate information about Robert Sofaly to be furnished to TransUnion as Portfolio Recovery Associates reported the trade line associated with an alleged debt with account number #520161171407**** and an alleged balance of \$3,022 as “Pay Status: >In Collection<” and “Remarks: >PLACED FOR COLLECTION<.”
- On 9/07/2023, Portfolio Recovery Associates again caused false and inaccurate information about Robert Sofaly to be furnished to TransUnion as Portfolio Recovery Associates reported the trade line associated with an alleged debt with account number #600889477822**** and an alleged balance of \$2,288 as “Pay Status: >In Collection<” and “Remarks: >PLACED FOR COLLECTION<.”
- The identifications of the trade lines associated with the alleged debts controverted the unenforceable nature of the alleged debts and purported the alleged debts to be enforceable.
- Therefore, Portfolio Recovery Associates falsely represented the character and legal status of the alleged debt in violation of § 1692e(2)(a).
- Upon falsely and inaccurately reporting the trade line associated with the alleged debts, Portfolio Recovery Associates communicated credit information which is known or which should be known to be false in violation of 15 U.S.C.A. § 1692e(8).
- Furthermore, Portfolio Recovery Associates failed to report the disputed nature of the trade lines associated with the alleged debts and thus communicated false information in violation of 15 U.S.C.A. § 1692e(8).

VIOLATION OF THE FDCPA

The FDCPA, 15 U.S.C.A. § 1692e, states in pertinent part:

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

- ...
- (2) The false representation of --
 - (A) the character, amount, or legal status of any debt;
 - ...
 - (8) Communicating or threatening to communicate to any person credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed.

- On 8/14/2023, Robert Sofaly sent Portfolio Recovery Associates the ‘First Dispute Letter’ wherein Portfolio Recovery Associates was informed of the disputed nature of any and all alleged debts that Portfolio Recovery Associates claimed to own relating to Robert Sofaly.
- Following the First Dispute Letter, Portfolio Recovery Associates possessed a duty to update any and all tradelines associated with Robert Sofaly to reflect the disputed nature of those alleged debts.
- On 9/04/2023, Portfolio Recovery Associates caused false and inaccurate information about Robert Sofaly to be furnished to TransUnion as Portfolio Recovery Associates reported the trade line associated with an alleged debt with account number #520161171407**** and an alleged balance of \$3,022 as “Pay Status: >In Collection<” and “Remarks: >PLACED FOR COLLECTION<.”
- On 9/07/2023, Portfolio Recovery Associates again caused false and inaccurate information about Robert Sofaly to be furnished to TransUnion as Portfolio Recovery Associates reported the trade line associated with an alleged debt with account number #600889477822**** and an alleged balance of \$2,288 as “Pay Status: >In Collection<” and “Remarks: >PLACED FOR COLLECTION<.”
- This constituted a communication of credit information which was known or should have been known to be false by the furnisher and thus a violation of 15 U.S.C.A. § 1692e(8).

FALSE REPRESENTATION OF LEGAL STATUS

- These identifications of the trade line associated with the alleged debts controverted the unenforceable nature of the alleged debts and purported the alleged debts to be enforceable.
- Therefore, Portfolio Recovery Associates falsely represented the character and legal status of the alleged debts in violation of § 1692e(2)(a).

FAILURE TO UPDATE TRADE LINE AS DISPUTED

- On 9/04/2023 and 9/07/2023, Portfolio Recovery Associates failed to report the disputed nature of the trade lines associated with the alleged debts in violation of 15 U.S.C.A. § 1692e(8).
- As a direct and proximate result of Portfolio Recovery Associates’ violations of the FDCPA, Robert Sofaly suffered annoyance, anxiety, embarrassment, emotional distress, and severe inconvenience.

3. CONSUMER LAW VIOLATION PROGRAM – WHAT IS IT?

- a. **Purpose of the Law:** Client understands that the purpose of the Consumer Protection Laws are to discourage Creditors or Debt Buyers from engaging in prohibited acts. With that goal in mind, law makers have drafted the Consumer Protection Laws to force Creditors to pay some or all of the following:
 - i. **Statutory damages \$100.00 minimum (technical violation) and \$1,000.00 maximum;**
 - ii. **Compensation for actual damages and/or emotional distress (in extreme cases);**
 - iii. **Punitive damages to punish the Creditor (three times the amount of actual damages in extreme cases);**
 - iv. **Reimbursement for Law Firm's costs and expenses in filing the suit;**
 - v. **Payment of our attorney fees.**

Law Firm uses best efforts to force the Creditor to pay for all of these items of damages. Client understands that all cases are different and unique. The damages calculation and settlement negotiation will vary from case-to-case depending upon the facts and the applicable Consumer Protection Laws.

- b. **Goal and Strategy:** Law Firm has litigated over a thousand debt collection cases in court. Law Firm, through experience, knows that Creditors will violate a consumer's rights in attempting to collect on an Enrolled Debt. Law Firm is able to file a lawsuit or counterclaim against the Creditor for violating these rights. Law Firm will use best judgment and best efforts to obtain money damages as identified in Paragraph 3(a) above. If successful, the Creditor will pay for Client's damages, Law Firm's attorney fees and costs. **Client pays nothing to Law Firm out-of-pocket.**
- c. **Positive Impact on Credit Score:** Client understands that one of the principle benefits that Client will receive if Law Firm is successful is the Deletion of the Trade Line on the Enrolled Account. Deletion of the Trade Line means that the negative credit history that is published on your credit card account will be removed on the request of the furnisher, Creditor or defendant in the lawsuit. This will improve Client's credit score and remove damaging information from Client's credit report. **Law Firm will negotiate this provision settlement whenever possible.**
- d. **Award or Settlement Taxable:** Law Firm is required to provide Client's personal tax ID number to Creditors or Defendants in settlement. **Law Firm does not issue a 1099 to Client.** Law Firm believes that Client's net proceeds (money received) from the settlement is not classified as "compensatory damages" for a "tort". Client's net proceeds do not qualify for exclusion or tax exemption **under Internal Revenue Code § 104(a)(2), because the settlement or award is not related to a physical injury or sickness.** In all cases where Client receives compensation, Client understands that Client must take this Agreement and the statement demonstrating the net compensation to a tax professional in order to evaluate the applicable IRS Tax Laws. Law Firm cannot guarantee any tax advice or outcome. **Client should obtain independent tax advice. CLIENT MUST fill out and return the attached W-9 Form in order to facilitate settlement.**
- e. **Law Firm's Compensation:** **Law Firm's Fees are recovered on an hourly basis based on our expertise, reputation, time invested, performance, agreed percentage of contingency fee, and other factors. Law Firm expects to make a profit from these cases, in order to increase Law Firm's overall profitability in exchange for a broad range of consumer protection services provided to all its Clients.** Client understands that Law Firm seeks to identify these violations and file lawsuits in order to

profit from the Consumer Protection Laws. Client understands that Law Firm, whenever possible, does all of the work on behalf of Client to make a recovery. Client understands and authorizes Law Firm to negotiate settlements and/or prosecute claims, in order to maximize Law Firm's profit on the case. Client understands that Law Firm believes that it is best to negotiate settlements prior to litigating claims, in order to maximize recovery for both Client and Law Firm, and to avoid unnecessary expenditure of time and effort for both Client and Law Firm. If a satisfactory pre-litigation settlement cannot be reached, Law Firm agrees to prosecute the case to trial if necessary and proper.

- f. **Pre-Authorized Settlement Authority: Client understands that it is expected that such cases will settle prior to litigation.** Client expressly authorizes Law Firm to negotiate and accept a \$3,750.00 settlement (per case). Law Firm is authorized to do this without communicating offers to Client. It is understood that Law Firm can seek additional fees if circumstances warrant the same.
- g. **Litigation - Contingent Fee:** Client agrees to pay Law Firm's services under this Agreement on a contingency basis. It is understood that Law Firm will only receive legal fees and reimbursement for costs if a settlement or award is obtained.
 - i. **Actual Damages Fee:** Law Firm shall be entitled to up to 40% the actual damages awarded or negotiated in settlement;
 - ii. **Punitive Damages Fee:** Law Firm shall be entitled to up to 40% the punitive damages awarded or negotiated in settlement;
 - iii. **Statutory Attorney Fees:** Law Firm shall be entitled to up to 100% of any attorney fees awarded by a court or negotiated in settlement.
 - **There are a wide array of circumstances that can present in a consumer protection lawsuit. In all cases, Law Firm will propose a distribution of the gross proceeds of any settlement or award for client's approval (Settlement Statement). At which time, Client and Law Firm may discuss the factors affecting the net proceeds that client may receive, which include, but are not limited to: amount of time spent and fees earned on the case, tax consequences to the client, credit repair achieved, debt waiver achieved, costs and balances owed.**
- h. **Estimated Recovery/ Net Proceeds:** Client understands that Law Firm expects to recover a relatively small amount of money for Client in the case of a violation of the Consumer Protection Laws. Client understands that, Law Firm believes that it is always in Client's best interest to engage in pre-litigation settlements without the need for lengthy court appearances, discovery and a trial.
 - i. **Example:** Law Firm files a lawsuit against Creditor for a technical violation (contacting the client directly after Law Firm has appeared on an Enrolled Debt, credit reporting without damages, or comparable technical violation). Law Firm negotiates or obtains a settlement or award for \$3,000.00, which includes \$1,000.00 statutory fine under the FDCPA, reimbursement for \$300.00 in costs, and payment of attorney fees in the amount of \$1,700. **Client would be entitled to Net Proceeds in the amount of \$600.00. Law Firm would be entitled to Fees in the amount of \$2,100, and reimbursement of costs of \$300.00.**

*** In all cases where recovery is made, Client will be entitled to a \$200.00 minimum recovery. No matter what the settlement or award.

*** While most cases are small settlements or awards of only a few thousand dollars. Some settlements or awards can be higher than the figures offered in the following example. If that is the case, Law Firm will discuss those cases with Client and advise Client as to the potential award, case strategy, and cost/benefit analysis.

- i. **IOLTA Account:** Client understands that all settlements proceeds or awards will be paid into Law Firm's IOLTA Trust Account, and the Fees, Costs, and Net Proceeds will be distributed to Law Firm and Client from the IOLTA Trust Account. This is required under Law Firm's ethical regulations.
- j. **Money Owed on Other Cases / Enrolled Accounts:** Client understands the Client's net proceeds on any settlement or award under this Agreement will be applied to any outstanding legal fees due and owing to Law Firm, whether under this Agreement or any other Agreement for legal services with Law Firm. This provision applies whether such Agreement was entered into prior to or after the date this Agreement is signed. This provision applies whether legal fees became due and owing prior to or after the date of this Agreement. If all legal fees due and owing to Law Firm are satisfied, Client will receive 100% of Net Proceeds by a check drafted from Law Firm's IOLTA Trust Account.
- k. **COSTS:** Client will not be responsible for any costs. Law Firm will forward all costs needed to prosecute the case. Law Firm shall be entitled to reimbursement of costs from the proceeds of any settlement or award, and will negotiate their recovery from Creditor or Debt Buyer defendant.
- l. **Attorney Fees / Client Dispute:** In the event that Law Firm is forced to defend a dispute under this Representation Agreement, the sole venue and location for filing suit against Law Firm will be Allegheny County, Pennsylvania, Court of Common Pleas. If Law Firm has to file suit against Client, or an Agent of Client, to enforce its rights under this agreement, Client shall be required to pay Law Firm's attorney fees and costs incurred in any lawsuit and/or effort to enforce its rights.

4. TERMS THAT APPLY TO ALL CLIENTS – REGARDLESS OF PLAN(S)

- a. REMOVAL OF ENROLLED ACCOUNTS BY CLIENT:** If Client demands that Law Firm remove an Enrolled Account from the Violation Program, to the extent that substantial work was done on a case or negotiation, Law Firm shall be entitled to recover reasonable fees for the legal work performed, up to and possibly in excess of funds available in Client's Dedicated Escrow Account. Law Firm is entitled to withdraw these funds from the Dedicated Escrow Account and place them into the Operating Account without Client's express consent. Client understands that he/she should discuss any decision to remove an Enrolled Account with Law Firm prior to attempting to do so.
- b. Client's Duties:** Client agrees to be truthful with Law Firm, to cooperate, to keep Law Firm informed of any information or developments which may come to Client's attention, to abide by this Agreement, and to keep Law Firm advised of Client's address, telephone number and whereabouts. Client will assist Law Firm in providing information and documents necessary for the representation in the described matter.
- c. Appeal:** This agreement will cover the Law Firm's legal fees in the event that we must appeal your case to the Superior Court. Law Firm will use its discretion and legal expertise in determining whether an appeal is necessary, proper, and worthwhile from a cost/benefit analysis. Under no circumstances shall Law Firm be obligated to file an appeal if Law Firm does not wish to prosecute a case further.
- d. Conditions:** This Agreement will not take effect, and Law Firm will have no obligation to provide legal services, until Client returns a signed copy of this Agreement or email acceptance of this Agreement.
- e. Others Bound:** Client agrees to hereby bind their heirs, executors and legal representatives to the terms and conditions set forth herein.
- f. Withdrawal:** Law Firm may withdraw or cease legal representation with Client's consent or for good cause. Good cause includes Client's breach of this Agreement, refusal to cooperate or to follow Law Firm's advice on a material matter or any fact or circumstance that would render Law Firm's continuing representation unlawful or unethical. When Law Firm's services conclude, all unpaid charges will immediately become due and payable.
- g. Entire Agreement:** This Agreement contains the entire agreement of the parties. No other agreement, statement, or promise made on or before the effective date of this Agreement will be binding on the parties.
- h. Severability in Event of Partial Invalidity:** If any provision of this Agreement is held in whole or in part to be unenforceable for any reason, the remainder of that provision and of the entire Agreement will be severable and remain in effect.
- i. MODIFICATION BY SUBSEQUENT AGREEMENT.** This Agreement may be modified by subsequent agreement of the parties only by an instrument in writing signed by both of them or an oral agreement only to the extent that the parties carry it out.

THE PARTIES HAVE READ AND UNDERSTOOD THE FOREGOING TERMS AND AGREE TO THEM AS OF THE DATE LAW FIRM FIRST PROVIDED SERVICES. IF MORE THAN ONE CLIENT SIGNS BELOW, EACH AGREES TO BE LIABLE, JOINTLY AND SEVERALLY, FOR ALL OBLIGATIONS UNDER THIS AGREEMENT.

By signing this agreement, I agree that I have had an opportunity to discuss the agreement with an Attorney, understand the agreement, and have had an opportunity to ask questions and have received an explanation for any questions that I had.

CLIENT ACCEPTS THESE TERMS

Print Name: Robert Sofaly

Signature: 

Date: Oct 10, 2023

Please provide contact phone and email below:

LAW FIRM OFFERS THESE TERMS

Date: September 27, 2023

J.P. Ward & Associates, LLC

Joshua P. Ward, Esq.

FAIR DEBT COLLECTION PRACTICES ACT and FAIR CREDIT REPORTING ACT OVERVIEW

During your initial call with your attorney, you may have heard about how we sometimes file lawsuits against your creditors for violating your rights. There are consumer protection laws that protect your rights. If you notify us, we can stop this illegal activity, put an end to harassing letters of phone calls, correct accounting and credit reporting errors. And, we do all of the work on your behalf, front the costs, and make the creditors pay you statutory fines and our attorney fees! You don't owe us anything if we are not successful.

COMMON VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT:

- Creditors call or send you a letter *after* you have hired us. This is illegal and we can fine the creditors for it. This is the most common type of lawsuit.
- Creditors send the sheriff to your house *after* you have hired us.
- Creditors send a letter or a lawsuit claiming an amount that is incorrect.
- Creditors fail to apply your payments to your account.
- Creditors make harassing phone calls to your friends and/or family.

PLEASE CONTACT US IMMEDIATELY WITH AN EMAIL SUMMARY OF ANY OF THESE VIOLATIONS. PLEASE INCLUDE THE LETTER OR DISCRIPTION OF THE PHONE CALL. WE FILE HUNDREDS OF THESE LAWSUITS EACH YEAR AND RECOVER THOUSANDS FOR OUR CLIENTS. **THESE LAWSUITS CAN BE FOR LARGE AMOUNTS OF MONEY IF YOU HAVE PAID MONEY TO A CREDITOR THAT WAS NOT ENTITLED TO COLLECT. PLEASE CONTACT ATTORNEY JOSHUA P. WARD AT 412-545-3015 OR EMAIL AT JWARD@JPWARD.COM**

COMMON VIOLATIONS OF THE FAIR CREDIT REPORTING ACT:

- At the beginning of our representation, we send a letter to your creditor stating that you have "disputed" the underlying debt. The creditor has an obligation to report that "dispute" to the CRAs (Experian, Equifax or TransUnion). If the creditor does not mark the account as disputed, we can file a lawsuit for statutory fines and attorney fees. This will repair credit reporting errors, provide you leverage and make them pay you money. **We must have the authorization to check your credit report in order to provide this protection.**
- At the end of our representation, we will have obtained a dismissal or judgment for defendant. That means that the debt is extinguished, and is legally unenforceable. Creditors often fail to update your credit report and the debt is shown as "past due". If we discover this common credit error we can file a lawsuit for statutory fines and attorney fees. **These lawsuits can be for large amounts of money if you were denied credit because of one of these errors i.e. school loans, mortgage or vehicle payment.** This will repair credit reporting errors, provide you leverage and make them pay you money. We must have the authorization to check your credit report in order to provide this protection.

If you have any questions about your rights as a consumer, or the Fair Debt Collection Practice Act, the Fair Credit Extension Uniformity Act, the Unfair Trade Practices and Consumer Protection Law, or the Fair Credit Reporting Act, please contact Attorney Joshua P. Ward at 412-545-3015 or email at jward@jpward.com.

IMPORTANT NOTICE

RE: LETTERS FROM DEBT COLLECTORS

BE SURE TO OPEN YOUR MAIL- EVEN IF IT APPEARS TO BE JUNK MAIL!

IF YOU RECEIVE A LETTER FROM ONE OF THE CREDITORS WE REPRESENT YOU FOR, IT IS LIKELY AN FDCPA VIOLATION AND WE WILL PURSUE LITIGATION ON YOUR BEHALF.

PLEASE FAX, EMAIL, OR POST MAIL THE LETTER TO US. WE WILL SCREEN IT FOR VIOLATIONS AS WELL AS LET THEM KNOW TO STOP CONTACTING YOU.

Email: jward@jward.com

Fax: 412-540-3399

Mail: J.P. Ward & Associates, LLC

201 S. Highland Avenue, Suite 201

Pittsburgh, PA 15206

Debtor Call Script for Logging Possible FDCPA Violations

Date: _____ TIME: _____

Collector: "Hello, is Mrs. Smith there?"

You: "Yes this is she." (It is OK to identify yourself if they ask. Name, address, and last four of SS# ONLY.)

IF THEY DO NOT IDENTIFY THEMSELVES ASK:

You: "Who is calling please and what company are you calling for?" (Under the FDCPA, collectors must identify themselves and their company)

Name of person calling you: _____

Name of the Company that is calling: _____

You: "What is the phone number to reach your Company at?"

Phone number they are calling From: _____

Collector: Mr. Smith, this is Mr. Collector. I am a debt collector with Company ABC and under federal law I must advise you that this is an attempt to collect a debt and any information given will be used for that purpose.

You: "Can you please wait a moment? I want to get a pen and paper to write this down."

Collector: "Your account is past due. I need to know if you are able to take care of this past due bill at this time."

You: "Can you please identify the account? Such as the last four digits and the full name of the creditor?"

Name of the Account: _____

Last four digits: _____

You: "And the amount you are claiming that I owe?"

Amount: _____

You: "Thank you. I will contact my attorney. And please make this your last call to me, I am revoking permission for you to call me at any number at all." **HANG UP.**



201 S HIGHLAND AVE., STE 201
PITTSBURGH, PA 15206

JOSHUA P. WARD, Esq.

412.545.3016 OFFICE
412.540.3399 FAX
Info@JPWARD.COM

November 02, 2023

VIA FIRST CLASS MAIL

Damien Malcolm
265 Industrial Hwy
Pottstown, PA 19464

RE: Damien Malcolm v. Portfolio Recovery Associates, LLC

Dear Damien Malcolm:

After requesting your credit reports, we have discovered that Portfolio Recovery Associates has illegally reported a disputed debt on your credit report. Enclosed please find two copies of the Representation Agreement and W-9 Form. Please sign and return a copy in the self-addressed stamped envelope provided. Please note that we will also be sending you an electronic version of these same documents via Adobe ESign that you can complete using a computer or smartphone.

Thank you for the opportunity to prosecute this case on your behalf. Please feel free to contact me with questions or concerns.

Very truly yours,

A handwritten signature in blue ink, appearing to read "J.P. WARD".

Joshua P. Ward, Esq.
jward@jpward.com
Phone: (412) 545-3016

Enclosure(s): 3

We believe a creditor has violated your rights under one or more consumer protection laws. You have the right to sue the bank or debt collector for statutory damages, which can put money back in your pocket, stop harassing conduct, and allow J.P. Ward & Associates, LLC to negotiate or force the deletion of the trade line from your credit score and history. The lawsuit almost never requires any involvement from you – we can usually handle 100% of the process on your behalf.

The consumer protection laws are designed to give lawyers the tools to fix credit reporting errors and stop harassing conduct. To be clear, these laws are designed only to put you back in the position you were in before the bank committed the violation, and to deter the bank from violating your rights in the future. However, you will likely receive a settlement check, and there may be tax consequences that you should understand. This depends on your tax bracket and how you typically claim your deductions on your return.

As your attorneys, we a duty to ensure that you understand all of benefits and tax consequences associated with our work. We have designed our representation agreements to ensure that we can correct credit reporting and other errors, protect our clients from paying out-of-pocket costs or fees.

If you plan to file your Form 1040 tax return and claim all itemized deductions, as opposed to the standard deduction (\$12,000.00), you may still have tax consequences associated with this lawsuit. Filing an itemized return is the best way to ensure you get to keep most of the money we obtain for you, and it is recommended course of action if your total deductions exceed 2% of your income. Please consult a licensed tax professional.

Additionally, if you are in the lower tax brackets (under \$77,400.00 per year income) you need not worry about negative tax consequences. Your net payout from the lawsuit will exceed any income tax that is assessed against you.

In all cases, the primary goals are to gain leverage to force the bank or creditor to remove the negative credit reporting from your history. This can be done with no out-of-pocket expense to you, because the bank or creditor must pay our attorney fees.

Very truly yours,

Joshua P. Ward, Esq
Direct dial: 412-545-3015
jward@jpward.com

AGREEMENT FOR STATUTORY CONSUMER LAW VIOLATION

J.P. Ward & Associates, LLC (“Law Firm”) and **Damien Malcolm** (“Client”), with a home address of **265 Industrial Hwy, Pottstown, PA 19464, United States**, hereby agree that Law Firm will provide legal services to Client on the terms set forth below.

1. **PROFESSIONAL UNDERTAKING:** Law Firm has agreed to undertake the representation as more fully described below. Although the Law Firm will do its best to provide effective legal services, success can never be guaranteed. Furthermore, the Law Firm does not guarantee any particular result on any matter. Nothing in this Agreement and nothing in Law Firm’s statements to Client will be construed as a promise or guarantee about the outcome of the matter. Law Firm makes no such promises or guarantees. Law Firm’s comments about the outcome of the matter are expressions of opinion only.
2. **SCOPE OF SERVICES.** Client hires Law Firm to provide legal services with respect to the following Enrolled Debt:
 - a. Creditor: Portfolio Recovery Associates; Account No. *9781; Balance: \$2084; Account No. *
Program: Litigation.

Client understands that Law Firm has identified a violation of one or more of the following statutes: **The Fair Debt Collection Practices Act** (hereinafter, the “**FDCPA**”). **The FDCPA prohibits a debt collector from improperly reporting a dismissed debt.** Law Firm believes that the following facts and resulting violations have occurred:

FACTS

- On or about 9/28/2023, J.P. Ward & Associates, LLC sent Portfolio Recovery Associates the ‘First Dispute Letter’ on behalf of Damien Malcolm, wherein Portfolio Recovery Associates was informed of the disputed nature regarding any and all alleged debts that Portfolio Recovery Associates claimed to own relating to Damien Malcolm.
- Following the First Dispute Letter, Portfolio Recovery Associates possessed a duty to update any and all tradelines associated with Damien Malcolm to reflect the disputed nature of those alleged debts.
- On 10/15/2023, Portfolio Recovery Associates caused false and inaccurate information about Damien Malcolm to be furnished to Equifax as Portfolio Recovery Associates reported the trade line associated with the alleged debt with account number *9781 and an alleged balance of \$2,084 as “Type of Account - Open” and “ADDITIONAL INFORMATION – Collection Account.”
- On 10/17/2023, Portfolio Recovery Associates again caused false and inaccurate information about Damien Malcolm to be furnished to Equifax as Portfolio Recovery Associates reported the trade line associated with the alleged debt with account number *9721 and an alleged balance of \$2,420 as “Type of Account - Open” and “ADDITIONAL INFORMATION – Collection Account.”
- The identifications of the trade lines associated with the alleged debts controverted the invalid and unenforceable nature of the alleged debts and purported the alleged debts to be enforceable.
- Therefore, Portfolio Recovery Associates falsely represented the character and legal status of the alleged debts in violation of § 1692e(2)(a).

- Upon falsely and inaccurately reporting the trade lines associated with the alleged debts, Portfolio Recovery Associates communicated credit information which is known or which should be known to be false in violation of 15 U.S.C.A. § 1692e(8).
- Furthermore, Portfolio Recovery Associates failed to report the disputed nature of the trade lines associated with the alleged debts and thus communicated false information in violation of 15 U.S.C.A. § 1692e(8).

VIOLATION OF THE FDCPA

The FDCPA, 15 U.S.C.A. § 1692e, states in pertinent part:

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

- ...
- (2) The false representation of --
 - (A) the character, amount, or legal status of any debt;
- ...
- (8) Communicating or threatening to communicate to any person credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed.
- On or about 9/28/2023, J.P. Ward & Associates, LLC sent Portfolio Recovery Associates the First Dispute Letter on behalf of Damien Malcolm, communicating the disputed nature of any and all alleged debts that Portfolio Recovery Associates claimed to own relating to Damien Malcolm.
- Following the First Dispute Letter, Portfolio Recovery Associates possessed a duty to update any and all tradelines associated with Damien Malcolm to reflect the disputed nature of those alleged debts.
- On 10/15/2023, Portfolio Recovery Associates caused false and inaccurate information about Damien Malcolm to be furnished to Equifax as Portfolio Recovery Associates reported the trade line associated with the alleged debt with account number *9781 and an alleged balance of \$2,084 as “Type of Account - Open” and “ADDITIONAL INFORMATION – Collection Account.”
- On 10/17/2023, Portfolio Recovery Associates again caused false and inaccurate information about Damien Malcolm to be furnished to Equifax as Portfolio Recovery Associates reported the trade line associated with the alleged debt with account number *9721 and an alleged balance of \$2,420 as “Type of Account - Open” and “ADDITIONAL INFORMATION – Collection Account.”
- This constituted a communication of credit information which was known or should have been known to be false by the furnisher and thus a violation of 15 U.S.C.A. § 1692e(8).

FALSE REPRESENTATION OF LEGAL STATUS

- These identifications of the trade line associated with the alleged debt controverted the invalid and unenforceable nature of the alleged debt and purported the alleged debt to be enforceable.
- Therefore, Portfolio Recovery Associates falsely represented the character and legal status of the alleged debt in violation of § 1692e(2)(a).

FAILURE TO UPDATE TRADE LINE AS DISPUTED

- On 10/20/2023, Portfolio Recovery Associates failed to report the disputed nature of the trade line associated with the alleged debt in violation of 15 U.S.C.A. § 1692e(8).

- As a direct and proximate result of Portfolio Recovery Associates's violations of the FDCPA, Damien Malcolm suffered annoyance, anxiety, embarrassment, emotional distress, and severe inconvenience.

3. CONSUMER LAW VIOLATION PROGRAM – WHAT IS IT?

- a. **Purpose of the Law:** Client understands that the purpose of the Consumer Protection Laws are to discourage Creditors or Debt Buyers from engaging in prohibited acts. With that goal in mind, law makers have drafted the Consumer Protection Laws to force Creditors to pay some or all of the following:
 - i. **Statutory damages \$100.00 minimum (technical violation) and \$1,000.00 maximum;**
 - ii. **Compensation for actual damages and/or emotional distress (in extreme cases);**
 - iii. **Punitive damages to punish the Creditor (three times the amount of actual damages in extreme cases);**
 - iv. **Reimbursement for Law Firm's costs and expenses in filing the suit;**
 - v. **Payment of our attorney fees.**

Law Firm uses best efforts to force the Creditor to pay for all of these items of damages. Client understands that all cases are different and unique. The damages calculation and settlement negotiation will vary from case-to-case depending upon the facts and the applicable Consumer Protection Laws.

- b. **Goal and Strategy:** Law Firm has litigated over a thousand debt collection cases in court. Law Firm, through experience, knows that Creditors will violate a consumer's rights in attempting to collect on an Enrolled Debt. Law Firm is able to file a lawsuit or counterclaim against the Creditor for violating these rights. Law Firm will use best judgment and best efforts to obtain money damages as identified in Paragraph 3(a) above. If successful, the Creditor will pay for Client's damages, Law Firm's attorney fees and costs. **Client pays nothing to Law Firm out-of-pocket.**
- c. **Positive Impact on Credit Score:** Client understands that one of the principle benefits that Client will receive if Law Firm is successful is the Deletion of the Trade Line on the Enrolled Account. Deletion of the Trade Line means that the negative credit history that is published on your credit card account will be removed on the request of the furnisher, Creditor or defendant in the lawsuit. This will improve Client's credit score and remove damaging information from Client's credit report. **Law Firm will negotiate this provision settlement whenever possible.**
- d. **Award or Settlement Taxable:** Law Firm is required to provide Client's personal tax ID number to Creditors or Defendants in settlement. **Law Firm does not issue a 1099 to Client.** Law Firm believes that Client's net proceeds (money received) from the settlement is not classified as "compensatory damages" for a "tort". Client's net proceeds do not qualify for exclusion or tax exemption **under Internal Revenue Code § 104(a)(2), because the settlement or award is not related to a physical injury or sickness.** In all cases where Client receives compensation, Client understands that Client must take this Agreement and the statement demonstrating the net compensation to a tax professional in order to evaluate the applicable IRS Tax Laws. Law Firm cannot guarantee any tax advice or outcome. **Client should obtain independent tax advice. CLIENT MUST fill out and return the attached W-9 Form in order to facilitate settlement.**
- e. **Law Firm's Compensation:** **Law Firm's Fees are recovered on an hourly basis based on our expertise, reputation, time invested, performance, agreed percentage of contingency fee, and other factors. Law Firm expects to make a profit from these cases, in order to increase Law Firm's overall profitability in exchange for a broad range of consumer protection services provided to all its Clients.** Client understands that Law Firm seeks to identify these violations and file lawsuits in order to

profit from the Consumer Protection Laws. Client understands that Law Firm, whenever possible, does all of the work on behalf of Client to make a recovery. Client understands and authorizes Law Firm to negotiate settlements and/or prosecute claims, in order to maximize Law Firm's profit on the case. Client understands that Law Firm believes that it is best to negotiate settlements prior to litigating claims, in order to maximize recovery for both Client and Law Firm, and to avoid unnecessary expenditure of time and effort for both Client and Law Firm. If a satisfactory pre-litigation settlement cannot be reached, Law Firm agrees to prosecute the case to trial if necessary and proper.

- f. **Pre-Authorized Settlement Authority: Client understands that it is expected that such cases will settle prior to litigation.** Client expressly authorizes Law Firm to negotiate and accept a \$3,750.00 settlement (per case). Law Firm is authorized to do this without communicating offers to Client. It is understood that Law Firm can seek additional fees if circumstances warrant the same.
- g. **Litigation - Contingent Fee:** Client agrees to pay Law Firm's services under this Agreement on a contingency basis. It is understood that Law Firm will only receive legal fees and reimbursement for costs if a settlement or award is obtained.
 - i. **Actual Damages Fee:** Law Firm shall be entitled to up to 40% the actual damages awarded or negotiated in settlement;
 - ii. **Punitive Damages Fee:** Law Firm shall be entitled to up to 40% the punitive damages awarded or negotiated in settlement;
 - iii. **Statutory Attorney Fees:** Law Firm shall be entitled to up to 100% of any attorney fees awarded by a court or negotiated in settlement.
 - **There are a wide array of circumstances that can present in a consumer protection lawsuit. In all cases, Law Firm will propose a distribution of the gross proceeds of any settlement or award for client's approval (Settlement Statement). At which time, Client and Law Firm may discuss the factors affecting the net proceeds that client may receive, which include, but are not limited to: amount of time spent and fees earned on the case, tax consequences to the client, credit repair achieved, debt waiver achieved, costs and balances owed.**
- h. **Estimated Recovery/ Net Proceeds:** Client understands that Law Firm expects to recover a relatively small amount of money for Client in the case of a violation of the Consumer Protection Laws. Client understands that, Law Firm believes that it is always in Client's best interest to engage in pre-litigation settlements without the need for lengthy court appearances, discovery and a trial.
- i. **Example:** Law Firm files a lawsuit against Creditor for a technical violation (contacting the client directly after Law Firm has appeared on an Enrolled Debt, credit reporting without damages, or comparable technical violation). Law Firm negotiates or obtains a settlement or award for \$3,000.00, which includes \$1,000.00 statutory fine under the FDCPA, reimbursement for \$300.00 in costs, and payment of attorney fees in the amount of \$1,700. **Client would be entitled to Net Proceeds in the amount of \$600.00. Law Firm would be entitled to Fees in the amount of \$2,100, and reimbursement of costs of \$300.00.**

***** In all cases where recovery is made, Client will be entitled to a \$200.00 minimum recovery. No matter what the settlement or award.**

***** While most cases are small settlements or awards of only a few thousand dollars. Some settlements or awards can be higher than the figures offered in the following example. If that is the case, Law Firm will discuss those cases with Client and advise Client as to the potential award, case strategy, and cost/benefit analysis.**

- i. **IOLTA Account:** Client understands that all settlements proceeds or awards will be paid into Law Firm's IOLTA Trust Account, and the Fees, Costs, and Net Proceeds will be distributed to Law Firm and Client from the IOLTA Trust Account. This is required under Law Firm's ethical regulations.
- j. **Money Owed on Other Cases / Enrolled Accounts:** Client understands the Client's net proceeds on any settlement or award under this Agreement will be applied to any outstanding legal fees due and owing to Law Firm, whether under this Agreement or any other Agreement for legal services with Law Firm. This provision applies whether such Agreement was entered into prior to or after the date this Agreement is signed. This provision applies whether legal fees became due and owing prior to or after the date of this Agreement. If all legal fees due and owing to Law Firm are satisfied, Client will receive 100% of Net Proceeds by a check drafted from Law Firm's IOLTA Trust Account.
- k. **COSTS:** Client will not be responsible for any costs. Law Firm will forward all costs needed to prosecute the case. Law Firm shall be entitled to reimbursement of costs from the proceeds of any settlement or award, and will negotiate their recovery from Creditor or Debt Buyer defendant.
- l. **Attorney Fees / Client Dispute:** In the event that Law Firm is forced to defend a dispute under this Representation Agreement, the sole venue and location for filing suit against Law Firm will be Allegheny County, Pennsylvania, Court of Common Pleas. If Law Firm has to file suit against Client, or an Agent of Client, to enforce its rights under this agreement, Client shall be required to pay Law Firm's attorney fees and costs incurred in any lawsuit and/or effort to enforce its rights.

4. TERMS THAT APPLY TO ALL CLIENTS – REGARDLESS OF PLAN(S)

- a. REMOVAL OF ENROLLED ACCOUNTS BY CLIENT:** If Client demands that Law Firm remove an Enrolled Account from the Violation Program, to the extent that substantial work was done on a case or negotiation, Law Firm shall be entitled to recover reasonable fees for the legal work performed, up to and possibly in excess of funds available in Client's Dedicated Escrow Account. Law Firm is entitled to withdraw these funds from the Dedicated Escrow Account and place them into the Operating Account without Client's express consent. Client understands that he/she should discuss any decision to remove an Enrolled Account with Law Firm prior to attempting to do so.
- b. Client's Duties:** Client agrees to be truthful with Law Firm, to cooperate, to keep Law Firm informed of any information or developments which may come to Client's attention, to abide by this Agreement, and to keep Law Firm advised of Client's address, telephone number and whereabouts. Client will assist Law Firm in providing information and documents necessary for the representation in the described matter.
- c. Appeal:** This agreement will cover the Law Firm's legal fees in the event that we must appeal your case to the Superior Court. Law Firm will use its discretion and legal expertise in determining whether an appeal is necessary, proper, and worthwhile from a cost/benefit analysis. Under no circumstances shall Law Firm be obligated to file an appeal if Law Firm does not wish to prosecute a case further.
- d. Conditions:** This Agreement will not take effect, and Law Firm will have no obligation to provide legal services, until Client returns a signed copy of this Agreement or email acceptance of this Agreement.
- e. Others Bound:** Client agrees to hereby bind their heirs, executors and legal representatives to the terms and conditions set forth herein.
- f. Withdrawal:** Law Firm may withdraw or cease legal representation with Client's consent or for good cause. Good cause includes Client's breach of this Agreement, refusal to cooperate or to follow Law Firm's advice on a material matter or any fact or circumstance that would render Law Firm's continuing representation unlawful or unethical. When Law Firm's services conclude, all unpaid charges will immediately become due and payable.
- g. Entire Agreement:** This Agreement contains the entire agreement of the parties. No other agreement, statement, or promise made on or before the effective date of this Agreement will be binding on the parties.
- h. Severability in Event of Partial Invalidity:** If any provision of this Agreement is held in whole or in part to be unenforceable for any reason, the remainder of that provision and of the entire Agreement will be severable and remain in effect.
- i. MODIFICATION BY SUBSEQUENT AGREEMENT.** This Agreement may be modified by subsequent agreement of the parties only by an instrument in writing signed by both of them or an oral agreement only to the extent that the parties carry it out.

THE PARTIES HAVE READ AND UNDERSTOOD THE FOREGOING TERMS AND AGREE TO THEM AS OF THE DATE LAW FIRM FIRST PROVIDED SERVICES. IF MORE THAN ONE CLIENT SIGNS BELOW, EACH AGREES TO BE LIABLE, JOINTLY AND SEVERALLY, FOR ALL OBLIGATIONS UNDER THIS AGREEMENT.

By signing this agreement, I agree that I have had an opportunity to discuss the agreement with an Attorney, understand the agreement, and have had an opportunity to ask questions and have received an explanation for any questions that I had.

CLIENT ACCEPTS THESE TERMS

Print Name: Damien Malcolm

Signature: Damien Malcolm

Date: Nov 8, 2023

Please provide contact phone and email below:

LAW FIRM OFFERS THESE TERMS

Date: November 02, 2023

J.P. Ward & Associates, LLC

Joshua P. Ward, Esq.

FAIR DEBT COLLECTION PRACTICES ACT and FAIR CREDIT REPORTING ACT OVERVIEW

During your initial call with your attorney, you may have heard about how we sometimes file lawsuits against your creditors for violating your rights. There are consumer protection laws that protect your rights. If you notify us, we can stop this illegal activity, put an end to harassing letters of phone calls, correct accounting and credit reporting errors. And, we do all of the work on your behalf, front the costs, and make the creditors pay you statutory fines and our attorney fees! You don't owe us anything if we are not successful.

COMMON VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT:

- Creditors call or send you a letter *after* you have hired us. This is illegal and we can fine the creditors for it. This is the most common type of lawsuit.
- Creditors send the sheriff to your house *after* you have hired us.
- Creditors send a letter or a lawsuit claiming an amount that is incorrect.
- Creditors fail to apply your payments to your account.
- Creditors make harassing phone calls to your friends and/or family.

PLEASE CONTACT US IMMEDIATELY WITH AN EMAIL SUMMARY OF ANY OF THESE VIOLATIONS. PLEASE INCLUDE THE LETTER OR DISCRIPTION OF THE PHONE CALL. WE FILE HUNDREDS OF THESE LAWSUITS EACH YEAR AND RECOVER THOUSANDS FOR OUR CLIENTS. **THESE LAWSUITS CAN BE FOR LARGE AMOUNTS OF MONEY IF YOU HAVE PAID MONEY TO A CREDITOR THAT WAS NOT ENTITLED TO COLLECT. PLEASE CONTACT ATTORNEY JOSHUA P. WARD AT 412-545-3015 OR EMAIL AT JWARD@JPWARD.COM**

COMMON VIOLATIONS OF THE FAIR CREDIT REPORTING ACT:

- At the beginning of our representation, we send a letter to your creditor stating that you have “disputed” the underlying debt. The creditor has an obligation to report that “dispute” to the CRAs (Experian, Equifax or TransUnion). If the creditor does not mark the account as disputed, we can file a lawsuit for statutory fines and attorney fees. This will repair credit reporting errors, provide you leverage and make them pay you money. **We must have the authorization to check your credit report in order to provide this protection.**
- At the end of our representation, we will have obtained a dismissal or judgment for defendant. That means that the debt is extinguished, and is legally unenforceable. Creditors often fail to update your credit report and the debt is shown as “past due”. If we discover this common credit error we can file a lawsuit for statutory fines and attorney fees. **These lawsuits can be for large amounts of money if you were denied credit because of one of these errors i.e. school loans, mortgage or vehicle payment.** This will repair credit reporting errors, provide you leverage and make them pay you money. We must have the authorization to check your credit report in order to provide this protection.

If you have any questions about your rights as a consumer, or the Fair Debt Collection Practice Act, the Fair Credit Extension Uniformity Act, the Unfair Trade Practices and Consumer Protection Law, or the Fair Credit Reporting Act, please contact Attorney Joshua P. Ward at 412-545-3015 or email at jward@jpward.com.

IMPORTANT NOTICE

RE: LETTERS FROM DEBT COLLECTORS

BE SURE TO OPEN YOUR MAIL- EVEN IF IT APPEARS TO BE JUNK MAIL!

IF YOU RECEIVE A LETTER FROM ONE OF THE CREDITORS WE REPRESENT YOU FOR, IT IS LIKELY AN FDCPA VIOLATION AND WE WILL PURSUE LITIGATION ON YOUR BEHALF.

PLEASE FAX, EMAIL, OR POST MAIL THE LETTER TO US. WE WILL SCREEN IT FOR VIOLATIONS AS WELL AS LET THEM KNOW TO STOP CONTACTING YOU.

Email: jward@jpward.com

Fax: 412-540-3399

Mail: J.P. Ward & Associates, LLC

201 S. Highland Avenue, Suite 201

Pittsburgh, PA 15206

Debtor Call Script for Logging Possible FDCPA Violations

Date: _____ TIME: _____

Collector: "Hello, is Mrs. Smith there?"

You: "Yes this is she." (It is OK to identify yourself if they ask. Name, address, and last four of SS# ONLY.)

IF THEY DO NOT IDENTIFY THEMSELVES ASK:

You: "Who is calling please and what company are you calling for?" (Under the FDCPA, collectors must identify themselves and their company)

Name of person calling you: _____

Name of the Company that is calling: _____

You: "What is the phone number to reach your Company at?"

Phone number they are calling From: _____

Collector: Mr. Smith, this is Mr. Collector. I am a debt collector with Company ABC and under federal law I must advise you that this is an attempt to collect a debt and any information given will be used for that purpose.

You: "Can you please wait a moment? I want to get a pen and paper to write this down."

Collector: "Your account is past due. I need to know if you are able to take care of this past due bill at this time."

You: "Can you please identify the account? Such as the last four digits and the full name of the creditor?"

Name of the Account: _____

Last four digits: _____

You: "And the amount you are claiming that I owe?"

Amount: _____

You: "Thank you. I will contact my attorney. And please make this your last call to me, I am revoking permission for you to call me at any number at all." **HANG UP.**